

DETAILED ACTION

Election/Restrictions

Claims 1-7 and 12 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species and invention, respectively, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on September 17, 2007.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 8-11, 14-17, 19 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Royal (5,383,293) in view of Howell (3,284,113) in view of Price (2,245,363).

Royal discloses a display system comprising a frame 11 having a lip; a transparent display panel 12 supported within a front side of the frame by the lip, the transparent display panel directly abutting the lip and an interior side surface of the frame (Fig. 3); a single piece spacer 13 positioned within the frame on an opposite side of the panel to the lip, the spacer directly abutting the transparent display panel and the interior side surface of the frame (Fig. 3); a backing 17, 20 positioned on an opposing side of the spacer to the panel, the backing adapted to maintain the spacer and the panel within the frame from a back side of the frame and wherein the backing generally extends across the entire center of the frame to provide an enclosed space within the frame between the panel and the backing. However, the front face of the frame disclosed by Royal appears to be flat, lacking the decorative contour recited in the claim. Howell teaches that it was known in the art to provide a decorative contour on the front face of a picture frame. It would have been obvious to one having ordinary skill in the art at the time the invention was made to the picture frame disclosed by Royal with a decorative contour, as taught by Howell, in order to make the frame more aesthetically pleasing. It is noted that although Howell happens to disclose a contour that meets the claim limitations (see Fig. 4 of Howell), a contour on the front of a picture frame is merely ornamental, and as such would be an obvious matter of artistic design choice no matter how it was claimed. Further, in Royal it appears that the contents of the frame are removed by removing the entire back panel. Price teaches that it was known in the art to remove the contents of a picture frame by forming an access panel in the back of the frame. The simple substitution of the known frame back taught by Price for the one disclosed by Royal would have been obvious to one having ordinary skill in the art at the time the invention

was made in order to achieve the predictable result of removably holding the contents in the frame.

Regarding claim 9, the backing comprises a matting component **18** and a backing component **20**.

Regarding claim 10, the spacer disclosed by Royal is slightly narrower than the lip, but it would have been obvious to one having ordinary skill in the art at the time the invention was made to make the spacer similar in width to the lip because such a modification would have involved a mere change in the size of a component. A change in size is generally recognized as being within the level of ordinary skill in the art. *In re Rose*, 105 USPQ 237 (CCPA 1955).

Regarding claim 11, the spacer disclosed by Royal has an inner circumference that is smaller than the outer circumference of the lip. However, it would have been obvious to one having ordinary skill in the art at the time the invention was made to make the inner circumference of the spacer similar to the outer circumference of the lip because such a modification would have involved a mere change in the size of a component. A change in size is generally recognized as being within the level of ordinary skill in the art. *In re Rose*, 105 USPQ 237 (CCPA 1955).

Regarding claim 17, see Fig. 7 of Price.

Regarding claim 19, Price discloses a living hinge and a single tab. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide a plurality of tabs instead of a single tab because it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art. *St. Regis Paper Co. v. Bemis Co.*, 193 USPQ 8.

Response to Arguments

Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The reference to Pargman shows a removable back cover, and the reference to Roy shows another removable (or openable) back cover.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gary C. Hoge whose telephone number is (571) 272-6645. The examiner can normally be reached on 5-4-9.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lesley Morris can be reached on (571) 272-6651. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Gary C. Hoge/
Primary Examiner, Art Unit 3611